

AMENDED IN SENATE SEPTEMBER 3, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN SENATE JUNE 5, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 366

Introduced by Assembly Member Mullin

February 14, 2003

An act to amend Sections 1502 and 1522.02 of the Health and Safety Code, relating to care facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 366, as amended, Mullin. Child care: substitute employee registry.

Existing law authorizes the State Department of Social Services to adopt regulations to create substitute employee registries for persons working at more than one facility licensed by the department, in order to permit these registries to submit fingerprint cards and child abuse index information for child care registries.

This bill would authorize the department to adopt the above regulations in order to permit these registries, instead, to submit fingerprint images and related information to the Department of Justice, in accordance with prescribed provisions, for ~~child care~~ workers who are associated with the registries, and would require the Department of Justice to assess all processing fees associated with these provisions. It would also require that the responses from the Department of Justice be provided to the department, and would permit these responses to include information from specified sources.

Existing law additionally authorizes the department to operate a substitute child care employee registry pilot program for the above purposes, pursuant to specified criteria, and to charge ~~an administrative~~ *a reasonable annual licensing fee* to participating registry facilities.

This bill, instead, would require, until January 1, 2007, the department to operate this substitute child care employee registry pilot program, and on and after that date, would authorize the department, in its discretion, to operate the pilot program. The bill would require the department to provide each registry under the pilot program with a facility number, and would require that the child care worker be registered with the registry, and not with an individual child care facility that temporarily employs the child care worker. The bill would require the registry to maintain all employee records for a child care worker at its central office subject to inspection or electronic transfer to the department if requested. This bill also would authorize the department to adopt emergency regulations to implement the pilot program.

The bill would define “substitute employee registry” for purposes of the California Community Care Facilities Act.

Existing law permits the department to limit the pilot program to specified counties.

This bill would revise the list of counties that may participate in the pilot program.

~~This bill would reappropriate to the department, from specified funds in the Budget Act of 2003, the sum of \$145,000 for the regulation, licensing, and oversight of substitute employee registries, thus constituting an appropriation.~~

The bill would require the department to report to the Legislature by March 31, 2004, specified information concerning the pilot program.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~—no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is in the interest of the safety of children and the quality of their care to maintain the teacher and child staff ratios in child care centers and schools as required by current law.

(b) Substitute employee registries are a valuable resource for filling vacancies with fully qualified substitute employees.

(c) The licensing and oversight of substitute employee registries are within the purview of quality initiatives in the state's plan under the Child Care and Development Fund as provided by the Congress of the United States.

~~(d) It is the intent of the Legislature to expand the substitute employee registry program statewide as soon as it is fiscally feasible to do so.~~

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) “Foster family agency” means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) “Small family home” means any residential facility, in the licensee’s family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) “Social rehabilitation facility” means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) “Community treatment facility” means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) “Noncustodial adoption agency” means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(11) “Transitional shelter care facility” means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for

1 sustaining the activities of daily living or for the protection of the
2 individual. Program components shall be subject to program
3 standards developed by the State Department of Social Services
4 pursuant to Section 1502.3.

5 (12) “Transitional housing placement facility” means a
6 community care facility licensed by the department pursuant to
7 Section 1559.110 to provide transitional housing opportunities to
8 persons at least 17 years of age, and not more than 18 years of age
9 unless the requirements of Section 11403 of the Welfare and
10 Institutions Code are met, who are in out-of-home placement
11 under the supervision of the county department of social services
12 or the county probation department, and who are participating in
13 an independent living program.

14 (13) “Substitute employee registry” means any organization
15 licensed pursuant to Section 1522.02 to provide ~~previously~~ cleared
16 employees to a community care facility on a temporary placement
17 basis.

18 (b) “Department” or “state department” means the State
19 Department of Social Services.

20 (c) “Director” means the Director of Social Services.

21 SEC. 3. Section 1522.02 of the Health and Safety Code is
22 amended to read:

23 1522.02. (a) The department may adopt regulations to create
24 substitute employee registries for persons working at more than
25 one facility licensed pursuant to this chapter, Chapter 3.01
26 (commencing with Section 1568.01), Chapter 3.2 (commencing
27 with Section 1569), Chapter 3.4 (commencing with Section
28 1569.70), Chapter 3.5 (commencing with Section 1596.90), or
29 Chapter 3.6 (commencing with Section 1597.30), in order to
30 permit these registries to submit fingerprint images and related
31 information pursuant to Section 1596.871, to the Department of
32 Justice for ~~child-care~~ workers who are associated with the registries
33 so that these facilities have available cleared care staff.
34 Notwithstanding paragraph (3) of subdivision (a) of Section
35 1596.871, the Department of Justice shall assess all processing
36 fees associated with this subdivision. The responses from the
37 Department of Justice shall be provided to the department and may
38 include information from its Criminal Index and Identification
39 (Cal-CII) system, the Federal Bureau of Investigation, ~~or~~ and, if
40 appropriate, the Child Abuse Central Index pursuant to

1 subparagraph (A) of paragraph (6) of subdivision (b) of Section
2 11170 of the Penal Code.

3 (b) (1) The department shall, until January 1, 2007, operate a
4 substitute child care employee registry pilot program for the
5 purposes of subdivision (a). On and after January 1, 2007, the
6 department may, in its discretion, operate the substitute child care
7 employee registry pilot program.

8 (2) The department may charge participating registries ~~an~~
9 ~~annual licensing fee not to exceed the annual fee charged the~~
10 ~~largest community care facility licensed for the care of children in~~
11 ~~the state~~ *a reasonable annual licensing fee*. Except for fees
12 associated with criminal background clearances, no licensing fees
13 shall be charged to temporary employees of these registries.

14 (3) The pilot program shall be subject to all of the following:

15 (A) The pilot program shall be limited to screening employees
16 for facilities licensed as child care facilities.

17 (B) Registries may not hire *or retain* any child care worker for
18 employment at a child care facility who requires an exemption
19 from the criminal background clearance requirements of law.

20 (C) The department shall only guarantee the authenticity of
21 criminal background and child abuse index information that
22 registries provide to child care facilities. Any other information
23 about a child care worker shall be verified by the registry and
24 certified through a certificate issued by the registry.

25 (D) The department shall provide each registry with a facility
26 number. The child care worker shall be registered with the registry,
27 and not with the individual child care facility that temporarily
28 employs him or her. Each registry's facility number shall remain
29 valid unless suspended or revoked by the department in the manner
30 specified for other licensed community care facilities. Each
31 registry shall maintain all employee background and employment
32 records at its central office subject to physical inspection or
33 electronic transfer to the department if requested.

34 (E) The department may limit the pilot program to the Counties
35 of Alameda, Contra Costa, Orange, Sacramento, San Francisco,
36 San Mateo, and Santa Clara.

37 (c) The department may adopt emergency regulations to
38 implement subdivision (b). The adoption, amendment, repeal, or
39 readoption of a regulation authorized by this subdivision is
40 deemed to be necessary for the immediate preservation of the

1 public peace, health and safety, or general welfare, for purposes of
2 Sections 11346.1 and 11349.6 of the Government Code, and the
3 department is hereby exempted from the requirement that it
4 describe specific facts showing the need for immediate action. For
5 purposes of subdivision (e) of Section 11346.1 of the Government
6 Code, the 120-day period, as applicable to the effective period of
7 an emergency regulatory action and submission of specified
8 materials to the Office of Administrative Law, is hereby extended
9 to 180 days.

10 ~~SEC. 4. From the funds appropriated pursuant to subdivision~~
11 ~~(d) of Provision 10 of Item 6110-196-0001 of the Budget Act of~~
12 ~~2003, relative to contracting with the State Department of Social~~
13 ~~Services for increased inspections of child care facilities, the~~
14 ~~amount of one hundred forty five thousand dollars (\$145,000) is~~
15 ~~reappropriated for the regulation, licensing, and oversight of~~
16 ~~substitute employee registries to the State Department of Social~~
17 ~~Services during the 2003-04 fiscal year.~~

18 *SEC. 4. The State Department of Social Services shall report*
19 *to the Legislature, by March 31, 2004, whether state personnel are*
20 *filling the authorized positions for the substitute child care*
21 *employee registry pilot program, including the proportion of each*
22 *person's time allocated to the substitute employee registry (SER)*
23 *project, the number of counties and substitute employee registries*
24 *participating in the pilot program as of February 28, 2004, and*
25 *any barriers encountered in the implementation of the pilot*
26 *program. A copy of any emergency regulations adopted by the*
27 *State Department of Social Services pursuant to Section 1522.02*
28 *of the Health and Safety Code shall also be transmitted with the*
29 *report.*

30 SEC. 5. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety
32 within the meaning of Article IV of the Constitution and shall go
33 into immediate effect. The facts constituting the necessity are:

34 In order to expedite criminal background checks so as to enable
35 temporary child care employees to fill emergency vacancies in
36 child care facilities as soon as possible, it is necessary that this act
37 take effect immediately.